IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 8TH MARCH 2007 / 17TH PHALGUNA 1928

Crl.MC.No. 636 of 2007()

S.T.NO.863/2006 OF J.F.C.M-I, KANJIRAPPALLY

PETITIONER: PETITIONER/ACCUSED

VINCENT MATHEW,S/O.MATHEW,KULATHUNGAL HOUSE,ANAKKALLU,KANJIRAPPALLY VILLAGE,KOTTAYAM DISTRICT.

BY ADV. SRI.TITUS MANI
SRI.S.SURAJ (PALATHANATHU)

RESPONDENTS: RESPONDENT/COMPLAINANT

STATE OF KERALA REP.BY THE PUBLIC PROSECUTOR,HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 08/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.636 of 2007

Dated this the 8th day of March 2007

O R D E R

The petitioner faces indictment in a prosecution before the learned Magistrate. The final report has been filed alleging commission of the offences punishable under Section 279 I.P.C and 185 of the Motor Vehicles Act. Annexure-II produced by the petitioner shows that cognizance has been taken by the learned Magistrate of the offences punishable under Section 279 I.P.C only. The petitioner has come to this court aggrieved by the alleged cognizance taken of the offence under Section 185 of the Motor Vehicles Act. This contention does not appear to be sustainable as Annexure-II indicates that cognizance was taken only of the offence punishable under Section 279 I.P.C. The learned counsel for the petitioner submits that the summons issued reveals that the petitioner has to face allegations both under Section 279 I.P.C and Section 185 of the Motor Vehicles Act. That summons has not been produced.

2. Be that as it may, as the order of the learned Magistrate shows that cognizance has been taken only of the

offence punishable under Section 279 I.P.C, I am not persuaded to invoke the powers under Section 482 Cr.P.C. At any rate, the petitioner will have to answer the charge under Section 279 I.P.C and I do not, in these circumstances, find any justification in the prayer for invocation of the powers under Section 482 Cr.P.C. If the learned Magistrate contemplates the reading over of the particulars of the offence under Section 185 of the M.V.Act also, the petitioner can certainly urge before the learned Magistrate that no such charge can be made on the facts available in this case assuming that Section 185 of the M.V.Act is also made from the allegations. The petitioner can certainly request the learned Magistrate to drop the proceedings under Section 258 Cr.P.C in respect of such allegations. The learned Magistrate shall consider such plea on merits and take appropriate decision. In any view of the matter, I am satisfied that it is not necessary to direct premature termination of the proceedings by invoking the powers under Section 482 Cr.P.C.

Hand over copy of this order to the learned counsel for the petitioner .

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006